

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CHRISTOPHER MCCOWEN,)
Petitioner,)
v.) Civil Action No. 11-12216-DPW
ANTHONY MENDONSA)
Respondent)

**RESPONDENT'S MOTION TO DISMISS FOR FAILURE
TO EXHAUST STATE COURT REMEDIES**

The respondent, through counsel, moves to dismiss this petition seeking a writ of habeas corpus for failure to exhaust his state court remedies. In support of his motion, the respondent states that the petitioner has presented this Court with a mixed petition, having failed to exhaust one of the claims contained in his petition. Because the petitioner has not yet provided the state's highest court with the first opportunity to pass on the merits of this claim, the petition should be dismissed. 28 U.S.C. § 2254(b)-(c). In the alternative, petitioner may delete the unexhausted claim. The respondent reserves the right to submit a memorandum raising additional defenses, if necessary.

In support of this motion, the respondent relies upon a memorandum of law, Answer, and Supplemental Answer filed with this Motion.

Respectfully submitted,
MARTHA COAKLEY
Attorney General

/s/ Susanne G. Reardon
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Dated: March 15, 2012

CERTIFICATE OF SERVICE

I hereby certify that this document was served upon Christopher McCowen, pro se, W88688, P.O. Box 8000, Shirley, MA 01464 by first class mail, postage pre-paid, on March 15, 2012.

/s/ Susanne G. Reardon
Susanne G. Reardon